

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>KENNETH L. BLANDING,</b>	:	
<b>Petitioner</b>	:	<b>No. 1:11-cr-00051</b>
	:	
<b>v.</b>	:	<b>(Judge Kane)</b>
	:	
<b>UNITED STATES OF AMERICA,</b>	:	
<b>Respondent</b>	:	

**MEMORANDUM**

Before the Court are Petitioner Kenneth Blanding's motions to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Doc. No. 79) and for an extension of time to file a brief in response to that of Respondent United States of America (Doc. No. 84). For the reasons that follow, the Court will deny Petitioner's motion for an extension of time without prejudice, and will direct service of Petitioner's Section 2255 motion on the United States.

**I. BACKGROUND**

On January 5, 2012, the Court sentenced Petitioner to 108 months imprisonment after he pled guilty to two counts of distribution and possession with intent to distribute cocaine base. (Doc. No. 64.) On February 18, 2014, Petitioner filed a Section 2255 motion to vacate, set aside, or correct his sentence. (Doc. No. 79.) On March 7, 2014, the Court provided Petitioner with a notice of election, informing him of his rights to file a petition for relief pursuant to 28 U.S.C. § 2255, the potential bar on subsequent petitions, and the one-year statute of limitations. (Doc. No. 83.) On April 10, 2014, Petitioner filed a motion for an extension of time to file a reply brief (Doc. No. 84), and on April 21, 2014, he responded to the Miller-Mason notice of election by electing for the Court to rule on his motion as filed (Doc. No. 86).

**II. DISCUSSION**

Petitioner requests an extension of time in which to file a brief in response to that of the United States, on the grounds that he “is unaware of a particular timeline or specific amount of time in which he has to respond.” (Doc. No. 84 at 1.) Specifically, Petitioner contends that the United States’ brief in response to his Section 2255 petition was due April 4, 2014, and that as of April 7, 2014, he had not received a copy of the brief. (Id.)

The Court will deny Petitioner’s motion for an extension of time, because the United States did not in fact have a briefing deadline of April 4, 2014, and thus Petitioner did not have a deadline by which to file a reply brief. The Court does not serve a copy of a petitioner’s Section 2255 motion upon the United States until either the petitioner files a notice of election indicating he wishes to have the motion ruled on as filed, or fails to respond to the notice of election within the prescribed time period. See U.S. v. Miller, 197 F.3d 644, 646 (3d Cir. 1999). Because the Court only received Petitioner’s notice of election on April 21, 2014, the Court had not yet served the United States with Petitioner’s Section 2255 petition when it received Petitioner’s motion for an extension of time on April 10, 2014. Thus, Petitioner was not facing a briefing deadline when he filed his motion for an extension of time. Accordingly, the Court will deny Petitioner’s motion for an extension of time without prejudice. An order consistent with this memorandum follows.